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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                           | CONFIRMATION NO.       |
|---|-------------|----------------------|---|------------------------|
| 10/563,055  | 06/01/2006  | Frederic Basset      | 0512-1315                                     | 8679                   |
| <small>465</small><br>YOUNG & THOMPSON<br>209 Madison Street<br>Suite 500<br>ALEXANDRIA, VA 22314 |             |                      | <small>7590</small><br>EXAMINER<br>LAM, ANN Y |                        |
|   |             |                      | ART UNIT<br>1641                              | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/22/2009                       | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/563,055

**Applicant(s)**

BASSET ET AL.

**Examiner**

ANN Y. LAM

**Art Unit**

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date 1/3/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group II (claims 15-41) in the reply filed on May 9, 2009 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites in line 4, "constituted by". It is not clear whether this is comparable to --comprising-- (which can include other elements) or --consisting of-- (which excludes all other elements) or --consisting essentially of--.

Claim 15, line 29, "characterized in that in combination:". The language "in combination" is confusing as to what is being referred and should be deleted.

Claim 15, line 36, recites "the non-convergent global test volume". The claim lacks antecedent basis for "the non-convex".

Claim 16, line 6, recites "at each occurrence". It is not clear as to what occurrence is being referred.

Claim 16, lines 9-14, recites "a transducer system .....comprising...." It appears that this transducer is the same as the transducer referred to in claim 15, line 26, but this is not reflected in claim 16.

Claim 16, line 15, recites "characterized in that in combination:". The language "in combination" is confusing as to what is being referred and should be deleted.

Claim 16, line 17, recites "[and in particular super-paramagnetic micro-granules (sp)]". It is not clear whether or not the recitation within the brackets are limiting the claim.

Claim 24, line 3, recites "an annular sealing tongue". It is not clear as to the structure of this limitation (shape, configuration).

Claim 26, line 1, recites "characterized in that a sampling needle is adapted in a sealed...". It is not clear whether or not "characterized" is equivalent to "further comprising". Also it is not clear as to what "adapted in" means. (It should be deleted).

Claim 26, lines 4-5, recites "on the side of the permeable upstream front face". The claim lacks sufficient antecedent basis for "the side". (An element has multiple sides, and thus it is not clear as to which side is being referred.)

Claim 27, line 4-5, recites "on the side of the permeable upstream front face". The claim lacks sufficient antecedent basis for "the side". (An element has multiple sides, and thus it is not clear as to which side is being referred.)

Claim 29, lines 3-4, recites "this sensor being of the type formed by". It appears that Applicant intends for the language subsequent to this recitation to recite specifics regarding elements recited in claim 15, as opposed to additional elements. However claim 29 does not appear to be reciting this.

Claim 29, line 5, recites "a multi-stage reactor tube". It is not clear as to what "multi-stage" means.

Claim 29, line 24, recites "such as". It is not clear whether or the language subsequent to this recitation is limiting the claims.

Claim 29, line 30, recites "characterized in that in combination:". The language "in combination" is confusing as to what is being referred and should be deleted.

Claim 30, line 3, recites language within brackets and it is unclear whether or not the claim is limited to this recitation.

Claim 30, line 5, recites "comprising the combination between". While the term "comprising" is used, the subsequent recitations however include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 30 does not reflect this.

Claim 30, line 23, recites "after activation". However it is not clear as to what is activated.

Claim 31, line 3, recites language within parentheses. It is not clear whether or not this language is limiting the claims (or is an alternative limitation).

Claim 31, line 8, recites "of which". It is confusing as to what Applicant means here, and it should be deleted. (It is not clear as to what is being referred. The sensor?)

Claim 32, line 2, recites "an independent device". It is not clear from what the device is independent.

Claim 32, line 4, recites "comprising the combination between". While the term "comprising" is used, the subsequent recitations however include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 32 does not reflect this.

Claim 32, line 6, recites language within parentheses. It is not clear whether or not this language is limiting the claims.

Claim 32, line 21, recites "after activation". It is not clear as to what is activated.

Claim 33, line 2, recites "an independent device". It is not clear from what the device is independent.

Claim 33, line 4, recites "comprising the combination between". While the term "comprising" is used, the subsequent recitations however include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 33 does not reflect this.

Claim 33, line 6, recites language within parentheses. It is not clear whether or not this language is limiting the claims.

Claim 33, lines 19-20, recites in bracket "such as". It is not clear whether or not this language is limiting the claims.

Claim 34, line 7, recites "after activation". It is not clear as to what is activated.

Claim 33, line 1, recites "further provided with". However the subsequent language include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 33 does not reflect this.

Claim 36, line 5, recites the carousel". The claim lacks sufficient antecedent basis for this limitation.

Claim 36, lines 5-6, recites "the top". It is not clear as to what top is being referred. (The top of what?)

Claim 37, line 4, recites in parentheses "such as". It is not clear whether or not this language is limiting the claims.

Claim 37, line 2, recites "characterized in that it further includes". However the subsequent language include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 37 does not reflect this.

Claim 38 depends from claim 1, which has been canceled. Thus it is unclear what claim 38 encompasses.

Claim 38, line 2, recites "comprising the characteristic combination between". While the term "comprising" is used, the subsequent recitations however include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 38 does not reflect this.

Claim 39, line2, recites "further comprises". However the subsequent recitations however include elements that are recited in claim 15. That is, it appears that Applicant intends for some of the subsequent language are further limiting the elements recited in claim 15, as opposed to adding limitations to claim 15. However, claim 39 does not reflect this.

#### ***Allowable Subject Matter***

Claim 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 16-41 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***



Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANN Y. LAM whose telephone number is (571)272-0822. The examiner can normally be reached on Mon.-Thurs. 9-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Shibuya can be reached on 571-272-0806. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ann Y. Lam/  
Primary Examiner, Art Unit 1641